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DISTRICT COURT OF GUAM

AUG - 7 2007

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IN THE UNITED STATES DISTRICT COURT

FOR THE TERRITORY OF GUAM

07-00022

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ONE 2003 MAZDA PROTÉGÉ
AUTOMOBILE, VIN
JM1BJ245X31205914,

Defendant.

CIVIL CASE NO. _____

**VERIFIED COMPLAINT OF
FORFEITURE**

COMES NOW the plaintiff United States of America, by and through its attorneys, Leonardo M. Rapadas, United States Attorney, and Karon V. Johnson, Assistant United States Attorney, and respectfully states as follows:

1. This is a civil action in rem brought to enforce the provision of Title 18, United States Code, § 981(a)(1)(B)(i), Title 21, United States Code, § 841(a)(1), and Title 21, United States Code, § 853(a)(2) for the forfeiture of a automobile which was used to commit and facilitate the commission of the crime of distribution of a controlled substance

2. This court has jurisdiction over this matter by virtue of Title 28, United States Code, §§ 1345 and 1355.

1 3. The defendant is ONE 2003 MAZDA PROTÉGÉ AUTOMOBILE, VIN
2 JM1BJ245X31205914,

3 4. The defendant ONE 2003 MAZDA PROTÉGÉ AUTOMOBILE, VIN
4 JM1BJ245X31205914, is within the jurisdiction of this Court.

5 5. The facts and circumstances supporting the seizure and forfeiture of the defendant
6 automobile are contained in the Declaration of Drug Enforcement Administration Special Agent
7 Michelle Jong, attached hereto and incorporated herein as Exhibit A.

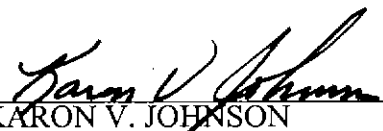
8 6. The defendant, ONE 2003 MAZDA PROTÉGÉ AUTOMOBILE, VIN
9 JM1BJ245X31205914, was used to facilitate a violation of Title 21, United States Code, §
10 841(a)(1), distribution of a controlled substance, and is therefore subject to forfeiture to the
11 United States of America pursuant to Title 18, United States Code, § § 981(a)(1)(B)(i), Title 21,
12 United States Code, § 841(a)(1), and Title 21, United States Code, § 853(a)(2).

13 **WHEREFORE**, the United States of America prays that process of warrant in rem issue
14 for the arrest of the defendant ONE 2003 MAZDA PROTÉGÉ AUTOMOBILE, VIN
15 JM1BJ245X31205914, that due notice be given to all parties to appear and show cause why the
16 forfeiture should not be decreed; that judgment be entered declaring the defendant ONE 2003
17 MAZDA PROTÉGÉ AUTOMOBILE, VIN JM1BJ245X31205914, be forfeited to the United
18 States of America for disposition according to law; and that the United States of America be
19 granted such other relief as this Court may deem just and proper, together with the costs and
20 disbursements of this action.

21 RESPECTFULLY SUBMITTED this 6th day of August, 2007.

22 LEONARDO M. RAPADAS
23 United States Attorney
24 Districts of Guam and NMI

25 By:

26 
KARON V. JOHNSON
27 Assistant U.S. Attorney
28

DECLARATION
(Exhibit A)

I, MICHELLE JONG, being first duly sworn, do depose and say:

1. That I am a Special Agent employed with the Drug Enforcement Administration and make this affidavit in the course of my official duties;

2. That I have reviewed the police reports filed by the Guam Police Department, case number 07-16243, and make this affidavit based upon the contents of those reports;

3. That on August 29, 2006, an informant working with the Violent Street Crimes Unit of the Guam Police Department (GPD) made a controlled buy of methamphetamine hydrochloride (ice) from Darrell S.C. Stewart. This controlled buy was preceded by consensually recorded telephone calls, and was observed to occur in the parking lot of the East West Business Center in Upper Tumon by GPD officers M.C. Perkins and M.L. Elliott, among others.

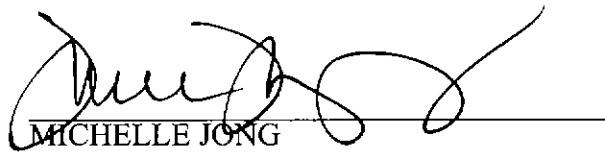
4. According to the reports written by Officers Elliott, M.C. Perkins and C.J. Nesmith, defendant Stewart arrived at the East West Business Center parking lot driving a silver 2003 Mazda Protégé, license MNG 5502. The informant had been given \$200 in buy money. The informant subsequently told the officers that he purchased from Stewart a plastic baggie which was later analyzed and found to contain .3944 grams net weight of methamphetamine. The informant said Stewart got out of his vehicle, the silver 2003 Mazda Protégé, and gave him the baggie while standing on the passenger side of the informant's vehicle. It is apparent, therefore, that the vehicle was used to transport the methamphetamine to the site of the sale.

5. An order under Title 21, United States Code, Section 853(e) may not be sufficient to assure the availability of the property for forfeiture because there is reason to believe that the automobile is in the custody of defendant, who cannot reasonably be relied upon to abide by an order to maintain the vehicle in substantially the same condition as it is in the present time. The value of such vehicles depreciates with time, and is dependent on the physical and mechanical

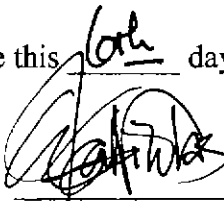
1 condition of the vehicle. As well, vehicles are easily hidden on Guam, and can be difficult to
2 locate. The only way to ensure that it does not further depreciate in value is to put it in the
3 custody of the U.S. Marshal's Service.

4 6. On July 24, 2007, Darrell S.V. Stewart appeared before the Honorable Steven S.
5 Unpingco, Judge of the Superior Court of Guam, and pled guilty to Possession of a Schedule II
6 Controlled Substance in connection with the sale of this .3944 grams of methamphetamine
7 hydrochloride, Criminal Case No. CF254-07.

8 FURTHER AFFIANT SAYETH NAUGHT.

9
10 
11 MICHELLE JONG
12 Special Agent
13 Drug Enforcement Administration

14 SUBSCRIBED AND SWORN to before me this 6th day of August, 2007.

15
16 
17 Notary Public

18 **CARMELLETA Q. SAN NICOLAS**
19 Notary Public
20 In and for Guam, U.S.A.
21 My Commission Expires: Aug. 15, 2010
22 Sirena Plaza, Ste. 500,
23 108 Hernan Cortez Avenue
24 Hagatna, Guam 96910